



Why I

ECF

By Warren E. Agin

Electronic Case Filing, otherwise known as ECF, is finally here, and I love it. The Bankruptcy Court for the District of Massachusetts, where I practice, first allowed electronic filing on July 1, 2003. I used it from the start, coming into the office early that day to file a notice of appearance. I had deliberately held onto the pleading for a couple of days just so I could enjoy that moment.

Not everyone shares my point of view. Eighteen months later, I still see debtors' counsel filing paper petitions—even typing the information by hand onto those Blumberg forms you can purchase at the local legal stationer's store. Some major creditors still file paper notices of appearance in Massachusetts' cases. Why? I don't know. I suppose some—make that many—attorneys remain uncomfortable with ECF. This article will try to explain why they should love ECF too.

ECF is a court-controlled system allowing participating attorneys and litigants to submit pleadings and corresponding docket entries to the court over the Internet. Using it is simple. First, the lawyer creates the document she wants to file. Instead of printing the document using a printer, the lawyer uses a program called Adobe Acrobat to print the document in an electronic form called PDF. Usually, doing this is as easy as printing to paper. Then, the lawyer or an

assistant uploads the document to the Court's docketing database using the Court's ECF web site. Interested parties then access dockets and pleadings over the Internet. It seems a little daunting at first, but the Courts using ECF have training programs that make everything much clearer. Plus, practice makes the process go much smoother.

The Administrative Office of the U.S. Courts started a comprehensive rollout of ECF in 2001. The intent was to implement ECF in all federal courts. As of January 2005, 80 bankruptcy courts in 48 states had implemented an electronic case management system to some degree.¹ Most included the ability to file pleadings and documents electronically. In many Courts, ECF is now mandatory. In fact, as of the beginning of 2005, ECF was mandatory in Massachusetts. If using ECF is still optional where you practice, be proactive. It won't be optional for long.

So, why do I love ECF?

ECF Makes Me Clairvoyant

At least ECF makes me clairvoyant compared to those poor fools who still use paper. With ECF you can know when a pleading gets filed or a decision entered within seconds of it happening. Then, you can call opposing counsel and amaze them with your astounding ability to foresee future events.

In truth, ECF allows me to interact with a case instantaneously. I can obtain a court order or pleading within minutes of its docketing and instantly e-mail the document to a client for its review. I have more time to react, more time to consider, and more time to draft really effective responses.

ECF Lets Me File Pleadings from Anywhere

With ECF, all I need to file a pleading is a computer and an Internet connection. Because my beach house has cable Internet and a wireless network, I can literally ruin someone else's weekend while sitting on the beach sipping a Friday afternoon margarita and watching the kids play in the surf.²

After drafting a motion for relief from stay, along with a request for an emergency hearing on Monday morning, I convert the documents to PDF form with a couple of keystrokes, log-on to the Court's ECF website, and upload the two pleadings. Since opposing counsel is a registered ECF user, he gets service by e-mail directly from the Court. When the Court graciously allows the motion for emergency hearing, I get an immediate e-mail notice of the decision and call opposing counsel on my cell phone to let him know. Of course he already has the bad news since he received e-mails both when I filed the motions and when the Court scheduled the hearing. His unprintable comments on the phone provide the only sour note to the day. After he hangs up on me, I quickly file a certificate of service on-line. Job accomplished, I close my laptop. Life just doesn't get any better than that.

With ECF, I Can Take My Wife to Paris

ECF can reduce the administrative burden on your office in a number of ways. One is the elimination of writing checks for filing fees. Registered users provide the Court with a credit card number. As you file pleadings that require filing fees, the ECF system keeps track of the amount owed. At the end of the day, you just select the "Internet Payments Due" option and charge those fees to your credit card. No more checks, and one easy on-line payment transaction.

Paying with a credit card provides another little bonus, at least if you use one of those cards that provide a benefit based on what you spend. My firm credit card is part of the Travelers Miles program. I figure a few thousand adversary proceedings and my wife and I are off to the City of Lights.

ECF Lets Me Lurk in the Shadows

In most jurisdictions, registered ECF users can set up a list of cases they want to monitor. When you add a case to the list, you get an e-mail notice of every docket entry as it is added to the case—just as if you had filed a notice of appearance and request for notice under Rule 2002. I love this feature.

Lurking in a case comes in handy in many different situations. For example, I can monitor a case while pitching my services to a creditor. Sometimes, I want to keep track of

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what is happening, but don't want to file an actual appearance. I might not have received a retainer yet or I may represent someone who is interested in buying estate assets. Maybe I just want to see the preference complaints going out – after all, the estate might sue a client of mine. Lurking is great. *"Because only the shadow knows."*

ECF Helps Me Serve My Clients Better

All joking aside, I really love ECF because it helps me do my job better. I no longer spend huge amounts of time making sure my staff makes the right number of copies of pleadings and gets them out the door, and in the correct envelopes, by the end of the day. I no longer have to rush to make seven copies of a debtor's petition and have them couriered to the Bankruptcy Court before the clerk's office closes. I spend less on photocopying, faxing, postage, courier fees and storage.

When I work as local counsel, I can provide immediate feedback on filing activities, including a copy of the pleading as filed. When opposing counsel files something, my

clients know right away because I can download and e-mail them the pleading. For myself, I no longer have to keep paper copies of everything filed in a case. Paper goes in the trash – the electronic copies are easier to store and organize. Now I can spend my time practicing law, rather than managing paper.

I like computers and had a very easy time making the transition from paper to electronic filing. Some people find the prospect daunting. For them, the Bankruptcy Court provides training and information. Take advantage of these resources. Go to the in-person training session. Go again. Check out the resources available on your Court's web site, as well as those of other courts. The Bankruptcy Court web sites for the Eastern District of Virginia and the Southern District of California have particularly nice ECF training sections. Sit down with someone else who already uses ECF and get him or her to show you how they use it. Ask your five year old for help. Do all these things or some of them, but if you are not already using ECF do something because you won't be able to avoid using it for much longer.

Try it. You may not love it, but you will like it.
GI

¹About CM/ECF, viewed at http://www.uscourts.gov/cmecf/cmecf_about.html on January 11, 2005.

²This is a hypothetical situation. I have yet to actually ruin someone's weekend while sitting on a beach. But I could if I wanted to and that's what really counts.

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